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## **DECISION AND ORDER**

On July 31, 2012, the Zoning Board of Howard County, Maryland (“Board”) considered the petition of Elm Street Development, Inc. (“Petitioner”) to amend the Preliminary Development Plan amended and approved in ZB 1066M for 18.62 acres of land on the East side of Gorman Road approximately 1,000 feet northeast of Skylark Boulevard, described as Tax Map 47, Grid 2, Parcel 4, 9880-9910 Gorman Road (the “Property”).

The notice of hearing was advertised, the Property was posted with notice of the hearing, and the adjoining property owners were mailed notice of the hearing as evidenced by the certificates of posting, advertising, and mailing to adjoining property owners which were entered into the record. Pursuant to the Zoning Board's Rules of Procedure, all reports and official documents pertaining to the petition, including the petition, the Technical Staff Report of the Department of Planning and Zoning ("DPZ"), the Planning Board's Recommendation, and the Decisions and Orders in ZB 1066M and 1081M were entered or incorporated into the record. Both DPZ and the Planning Board recommended approval of the petition.

Petitioner was represented by Jason Van Kirk, Vice President of Petitioner. One resident, Ms. Myra Phelps, testified in opposition to the petition.

After careful evaluation of the evidence, the Board makes the following Findings of Fact and Conclusions of Law:

## FINDINGS OF FACT

1. In 2005, in ZB 1041M, the Zoning Board rezoned the Property from the R-ED (Residential: Environmental Development) District to the PSC (Planned Senior Community) District and approved a Preliminary Development Plan ("PDP") for an age-restricted housing development on the Property.

2. In 2007, in ZB 1066M, the Zoning Board granted the petition of Murray Hill PSC, LLC ("Murray Hill") to amend the PDP approved in ZB 1041M. The PDP amended and approved in ZB 1066M ("the 2007 PDP") permits construction of 215 apartments, single-family attached and semi-detached dwellings.

3. In 2010, in ZB 1081M, the Zoning Board denied Murray Hill's petition to rezone the Property from the PSC District to the R-SA-8 District.

4. In this case, Petitioner, the contract purchaser of the Property, proposes to amend the 2007 PDP for the Property to reduce the total number of permitted dwellings to 87 single-family attached and 10 single-family detached dwellings. In addition to decreasing the overall density, the proposed PDP ("the 2012 PDP") no longer provides for the construction of apartments.

5. Mr. Van Kirk provided a description of the 2012 PDP. He stated that Petitioner proposes to reduce the density, building 97 units (villas and single-family homes) while maintaining the same forest buffers that were presented in the 2007 PDP. Petitioner will construct a community recreation center based upon 97 units, and will incorporate the new stormwater management requirements into the development. According to Mr. Van Kirk, Petitioner will construct the age-restricted units in accordance with universal design guidelines

(no step access, 36 inch front doors, 32 interior doors, 36 inch hallways, master bedrooms and bathrooms on first floor, and blocking for grab bars for toilets and showers).

Mr. Van Kirk stated that he met with the community in December and that the residents' major concerns were traffic along Gorman Road, the safety of Gorman Road, and the development's impact on the schools. Mr. Van Kirk stated that there is only one access to the development along Gorman Road, and that Petitioner will perform improvements in accordance with the traffic study. Mr. Van Kirk also confirmed that the proposed development will not impact the schools because it is still an active-adult community. When asked about the reason for the changes, Mr. Van Kirk explained that active-adult villas and singles are currently selling well in the County (for example, Waverly Woods West).

6. Ms. Myra Phelps testified in opposition to the petition that she is concerned that the historic aspect of the Property is being ignored. It was explained to Ms. Phelps that if the Zoning Board denies the request, Petitioner may build 215 units as a matter of right, many more than the 97 units Petitioner is proposing. Ms. Phelps stated that she would rather have 97 units than 215 units.

7. The Board finds that the petition and Mr. Van Kirk, through his testimony, provided all of the information necessary for the Board to evaluate the 2012 PDP in accordance with Section 127.1.H. of the Zoning Regulations. The Board further finds that DPZ, in its Technical Staff Report, thoroughly evaluated the 2012 PDP in accordance with Section 127.1.H.

#### CONCLUSIONS OF LAW

1. Pursuant to Sections 127.1.K. and J. of the Zoning Regulations, the Board may approve a petition to amend a PDP if it determines that the Planned Senior Community, with the



proposed amendments, satisfies the standards for approval set forth in Section 127.1.H. of the Zoning Regulations.

2. The Board finds that the 2012 PDP, which significantly reduces the number of permitted dwellings, satisfies all of the criteria of 127.1.H. for the reasons articulated by Mr. Van Kirk at the hearing and by DPZ in its Technical Staff Report. Regarding the standard of safe public road access (Section 127.H.3), the Board additionally notes that it determined in ZB 1066M that the increase in traffic attributable to the proposed development of 216 dwelling units would leave the roads with acceptable levels of service; the significant reduction in the number of dwellings will further promote safe road access to and from the Property.

3. The Board concludes that Petitioner has met all of the standards for approval of the 2012 PDP as required by Sections 127.1.K., J., and H. of the Zoning Regulations.

For the foregoing reasons, the Zoning Board of Howard County, on this 24<sup>th</sup> day of September, 2012, hereby GRANTS Petitioner's request to approve the 2012 PDP as submitted to the Board at the hearing.

ATTEST:

ZONING BOARD OF HOWARD COUNTY



Robin Regner  
Administrative Assistant

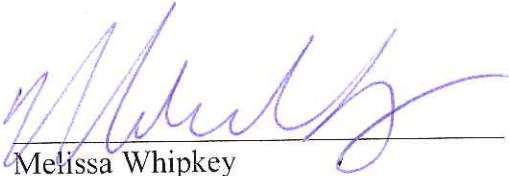


Jennifer Terrasa, Chairperson

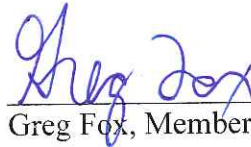
ABSENT

PREPARED BY HOWARD COUNTY  
OFFICE OF LAW  
MARGARET ANN NOLAN  
COUNTY SOLICITOR

Calvin Ball, Vice Chairperson



Melissa Whipkey  
Assistant County Solicitor



Greg Fox, Member



Mary Kay Sigaty, Member

ABSENT

Courtney Watson, Member